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NEWS RELEASE

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Proposed Changes in Judicial Ethics Circulated for Public Comment

San Francisco—The Supreme Court Advisory Committee on the Code of Judicial Ethics today announced it is seeking public comment on proposed amendments to the code, which establishes standards for ethical conduct for state judges on and off the bench and for candidates for judicial office.

Adopted by the Supreme Court, the code is applicable to all members of the judiciary. The code is available on the California Courts Web site at http://www.courtinfo.ca.gov/rules/documents/pdfFiles/ca_code_judicial_ethics.pdf

The issues covered by the proposed changes include judicial disclosure, self-reporting, character reference letters, conflicts of interest for judges who make administrative and business decisions for the court, handling cases with self-represented litigants, communicating with corrections officials, and misusing the prestige of the office by commissioners or referees.

The code changes now being circulated for comment are available at <http://www.courtinfo.ca.gov/invitationstocomment/bproposal.htm>. A summary of the proposed changes is attached.

Comments are due by June 15, 2007, to the following address: Ms. Geraldine Dungo, Administrative Office of the Courts, Office of the General Counsel, 455 Golden Gate Avenue, San Francisco, California 94102.

In addition, the Supreme Court announced two recent changes to the Code of Judicial Ethics that took effect on January 1, 2007:

- **Registered domestic partners:** The Supreme Court added the term "registered domestic partner" to the code wherever the code refers to a judge's or justice's spouse. The code also defines a "registered domestic partner" in the

Terminology section as "a person who has registered for domestic partnership pursuant to state law or who is recognized as a domestic partner pursuant to Family Code section 299.2." These changes were implemented to ensure that judges with registered domestic partners have the same disqualification and disclosure obligations as judges with spouses.

- **Disqualification:** The court amended canon 3E(5)(h), which is a disqualification provision applicable to appellate justices. This amendment tracks recent legislative amendments to Code of Civil Procedure section 170.1(a)(8), which is applicable to trial court judges, and clarifies the circumstances under which an appellate justice who is considering employment or service as an ADR neutral or who has engaged in ADR employment discussions is disqualified.

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Supreme Court Advisory Committee on Code of Judicial Ethics

Summary of Proposed Amendments to Code of Judicial Ethics Circulated for Comment: April 2007

Disclosure by trial court judges. The proposed amendment to canon 3E(2) would provide that a judge must disclose on the record information that is reasonably relevant to the question of disqualification under Code of Civil Procedure section 170.1. Currently, canon 3E(2) provides for the disclosure of information *the judge believes* the parties or their lawyers might consider relevant to the question of disqualification. Canon 6D(5)(a), which pertains to temporary judges, referees, and court-appointed arbitrators, and the commentary following canon 3E would also be amended to reflect this change.

Self-reporting. The proposed amendments to canon 3D(3) would provide that (1) assigned judges self-report to the Chief Justice when charged with or convicted of certain crimes, and (2) subordinate judicial officers (SJOs) similarly self-report to the presiding judges of the courts in which they sit as well as to the Commission on Judicial Performance (CJP). Currently, canon 3D(3) requires these judicial officers to self-report to the CJP, but the CJP has no jurisdiction over assigned judges, and it has concurrent jurisdiction with the local courts over SJOs. Another amendment to canon 3D(3) would add misdemeanor citations filed directly with superior court to the list of charging documents that may trigger the self-reporting requirement for all judicial officers.

Character reference letters. The proposed amendments to canon 2B(2) would permit judges to submit character reference letters to the CJP on behalf of other judges who are under investigation. It is unclear under the current canon and commentary whether doing so would impermissibly lend the prestige of judicial office to advance the interests of the judges under investigation. The committee concluded there is no basis for prohibiting these letters, which may be useful. The committee also recommends adding to the commentary following canon 2B(2) a cross-reference to the canon requiring judges to take appropriate corrective action when another judge or an attorney engages in misconduct.

Communications with corrections officials. The proposed amendments to canon 2B(2) would clarify the circumstances under which a judge may communicate with corrections officials. Currently, a judge may not initiate communications with a sentencing judge or a probation or corrections officer unless it is in response to an official request. This proposed change would add the Board of Parole Hearings and the Office of the Governor to the list of communication recipients because those entities handle requests for parole and clemency. It would provide that a judge may initiate such communications, provided the judge presided over some aspect of the underlying case or was either the prosecutor or the defense counsel.

Conflicts of interest for judges with administrative responsibilities. The proposed amendment to canon 3C(1) would specifically address conflicts of interest for judges who are involved in administrative and business decisions for the court. This amendment would

state that judges involved in such decisions must fulfill their administrative responsibilities “free of conflict of interest.” The committee reasoned that this phrase should be added because the provisions in the Political Reform Act that prohibit public officials from participating in government decisions in which they have a financial interest do not apply to judges.

Self-represented litigants. The proposed amendment to canon 3B(8) would address handling cases with self-represented litigants. The amendment to the canon would state that judges must manage the courtroom in a manner that provides all litigants, both those who are self-represented and those with counsel, the opportunity to have their matters fairly adjudicated. The committee also recommends adding to the commentary a sentence noting that a judge handling a case with a self-represented litigant has the discretion to take reasonable steps, consistent with the law, to enable the litigant to be heard.

Misuse of prestige of office by temporary judges. The proposed amendment to canon 6D would permanently prohibit temporary judges, referees, and court-appointed arbitrators from using their title or lending the prestige of judicial office to advance the interests of themselves or others. Currently, this prohibition is limited to the time period between the date of appointment and termination of the appointment. This amendment would make the prohibition permanent.

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